THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.8208 of 2006

ORAL ORDER:

This writ petition is filed seeking a Certiorari to call for the records relating to the order in M.P.No.293 of 2004 dated 5.11.2004 on the file of the first respondent and quash the same as arbitrary and illegal.

It appears, petitioner filed a petition under Section 33(c)(2) of the Industrial Disputes Act, 1947 claiming certain amounts on the ground that there was short payment of amounts relating to provident fund etc., after his retirement. The said petition was dismissed as not maintainable by order dated 5.11.2004. Aggrieved by the same, the present writ petition is filed.

There is no necessity of going into all the details. The issue that has to be decided in the claim petition is as to whether the petitioner had worked for the period, which he claimed, or not. Since the petitioner claims that he has worked with the respondent during the said period, the issue has to be determined and decided after adducing necessary evidence before the Labour Court. The Labour Court ought not to have dismissed the petition at the threshold. This view is also supported by the judgment rendered in **V.PENTAYYA v. THE JOINT MANAGER, FOOD CORPORATION OF INDIA**[1] wherein, it was held that the real test is not one as to whether the claimant is presently or formerly a workman, but the clinching fact is that the claim should relate to the period during which the person was a workman. In this case, the petitioner claimed amounts after his retirement, which does not mean that the claim of the petitioner does not relate to the said period.

Under those circumstances, the impugned order is set aside and the matter is remitted back to the Labour Court for fresh consideration after giving opportunity to all the parties concerned.

The writ petition is accordingly allowed. No order as to costs.

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C.V.RAMULU,
J

Date: 4.6.2007

Note:
Issue C.C. in one week.
B/o
DA

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.8208 of 2006

4.6.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.8208 of 2006

Date: 4th June, 2007

Between:

Vemula Sambasiva Rao

.. Petitioner

And

The Presiding Officer,
Labour Court, Guntur,
Guntur district & others.

.. Respondents

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[1] 1992(2) ALT 107